

APPEAL NO. 042358  
FILED NOVEMBER 15, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 1, 2004. The hearing officer determined that the decision of the Independent Review Organization is supported by a preponderance of the evidence. Appellant (claimant) appealed this determination on sufficiency grounds. Respondent (carrier) urges affirmance.

DECISION

We affirm.

Claimant attached a document to his appeal that was not admitted at the hearing and was dated after the hearing. Documents submitted for the first time on appeal are generally not considered unless they constitute admissible, newly discovered evidence. We conclude that this attachment to claimant's appeal does not meet the requirements of newly discovered evidence necessary to warrant a remand. Having reviewed the document, we conclude that admission on remand would not result in a different decision. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ).

The applicable law and our appellate standard of review are discussed in Texas Workers' Compensation Commission Appeal No. 021958-s, decided September 16, 2002. We have reviewed the complained-of determination and conclude that the issue involved a fact question for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determination is supported by the record and is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **UTICA MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**DAVE CUNNINGHAM, REGIONAL VICE PRESIDENT  
2435 NORTH CENTRAL EXPRESSWAY, SUITE 400  
RICHARDSON, TEXAS 75080.**

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Robert Potts  
Appeals Judge